

7/24/78 [2]

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Memo	Kraft & Gammill to Pres. Carter, w/attachments 5 pp., re:recommendations	7/24/78	C
Memo	Civilotti to Pres. Carter, w/attachments 22 pp., re:Rodriguez Case <i>opened per RAC NLC-126-13-28-1-9, 6/12/13</i>	7/21/78	A

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THE WHITE HOUSE
WASHINGTON

July 24, 1978

Tim Kraft
Jim Gammill

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: NATIONAL COUNCIL ON HUMANITIES

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ACTION
FYI

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	EYES ONLY

	VICE PRESIDENT
	EIZENSTAT
	JORDAN
<input checked="" type="checkbox"/>	KRAFT
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
<input checked="" type="checkbox"/>	GAMMILL
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE

WASHINGTON

July 21, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: TIM KRAFT
JIM GAMMILL *Jim G*

SUBJECT: National Council on the Humanities

Several weeks ago you approved eleven new members of the National Council on the Humanities. One of the members will be unable to serve.

Joe Duffey feels that he needs a woman from the West who has some affiliation with a state agency on humanities.

Geraldine (Kaye) Howe is Chairperson of the Comparative Literature and Humanities Program at the University of Colorado at Boulder. She is also Vice Chairperson of the State Board of the Colorado Humanities Program. She is supported by Senator Hart and Wellington Webb.

RECOMMENDATION:

Nominate Geraldine (Kaye) Howe as a member of the National Council on the Humanities.

☒ approve

☐ disapprove

*Let
Haskell
announce*

J

✓ Resume - Kaye Howe

Born: October 11, 1938, Pittsburgh, Pa.

Program in Comparative Literature
Woodbury Hall 205
University of Colorado at Boulder
Boulder, Co. 80309
(303) 492-8426

Home Address: 850 20th Street, Apt.702
Boulder, Co. 80302
(303) 443-4088

Education: B.A. (1960 - General Literature)
Ph.D. (1971 - Comparative Literature)
Washington University, St.Louis, Missouri

1967-68 English Department, University of Wyoming, Laramie, Wyoming

1968- Comparative Literature and Humanities
University of Colorado at Boulder
Boulder, Colorado

Currently in fourth year as Chairperson of the Program in
Comparative Literature. Just elected Chairperson of the
Boulder Faculty Assembly, the faculty government of CU at
Boulder.

1975-78 Member of the State Board of the Colorado Humanities Program

1978 - Vice-chairperson

I have served on various University committees and have been nominated a
number of times for our outstanding teacher award. My teaching and research
have been primarily in 18th and 20th century topics, though I have taught
in the medieval period and on the continuity of the classical tradition.
I have just finished a graduate seminar in Ezra Pound, a poet in whom I
have had a significant interest in the last few years. My dissertation was
on a common theme in Rousseau, Schiller and Kant and I have continued my
interest in Rousseau in particular.

THE WHITE HOUSE
WASHINGTON
July 24, 1978

Frank Moore

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the President's outbox. It is
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Rick Hutcheson

cc: Stu Eizenstat

WATER RESOURCES COUNCIL

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✓	MOORE
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	BRZEZINSKI
	MCINTYRE
	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
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	JAGODA
	LINDER
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	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

Frank
C

THE WHITE HOUSE

WASHINGTON

July 18, 1978

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT
KATHY FLETCHER

Stu

SUBJECT:

Water Resources Council

This memorandum brings you up-to-date on water policy initiatives involving the Water Resources Council.

There is an effort in the House of Representatives to abolish the Water Resources Council, the interagency council chaired by Interior. This effort has been spearheaded by Congressman Tom Bevill, who wants to preempt the WRC's potential role in implementing the water policy. The House-passed Interior authorization bill does not renew authorization for the WRC, but the Senate-passed bill retains WRC. Udall and Meeds hope to preserve WRC in the conference on this bill.

Meanwhile, the water policy contains initiatives which increase the responsibilities of the WRC, including actions which will require authorization and appropriation actions as follows:

- expanding the existing WRC state planning grant program;
- creating new state grants for water conservation technical assistance programs; and
- adding approximately 30 staff for independent water project review function.

We have discussed legislative strategy with Congressmen Udall and Meeds who recommended that the first order of business should be to save the WRC at its current level.

Page 2

They advised us not to transmit any other WRC proposals now. Then, if there is time after the conference on the Interior authorization, we will be ready to move.

This strategy appears to be the only sensible option, but it probably means a delay in implementing these key aspects of the water policy.

We have also discussed this strategy with the National Governors Association and other parties interested in the grants and they understand the situation.

THE WHITE HOUSE

WASHINGTON

C
✓

MR. PRESIDENT:

Jerry Rafshoon has requested me to appear
on a television show tomorrow morning.
I will, therefore, be about 5 minutes
late for the Congressional Breakfast.

Stu

Stu Eizenstat

24 Jul 78

Cabinet meeting 7/24/78

THE WHITE HOUSE
WASHINGTON

- > Namibia
- o7 Hosp cost Containment ^{free up} 244 mil acres.
- > D-2 = H 271/62 Senate ??
- > Airline dereg
- o7 Natural gas bill - Senate next wk
Schlesinger → PRC (ERW)
- > Cecil - Snake, etc
- > Anti-inflation
- > '78 elections - '57 open - schedule
- > Civil Service Reform 8/8-9
- > Helms amendment - Rhodesia
- > Security assistance - veto?
- > Rafschoon - Themes - Unemp. truth
- o7 Tax reform / cut
- > Postal settlement
- > Mid E - Leeds
- > Turkey

THE WHITE HOUSE
WASHINGTON

- > '74-75 oil overcharges *Civ/crim*
- Northwestern / CABS
- > Weather modification
- > Labor law reform
- > Doug Fraser

THE WHITE HOUSE
WASHINGTON
July 24, 1978

Jerry Rafshoon
Jody Powell

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the President's outbox. It is
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Rick Hutcheson

RE: PUBLIC ACTIVITY PLAN

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Had cc to Voorde/Wise until we get today's comment -

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Well

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	VOORDE
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	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE
WASHINGTON

7/21/78

Mr. President:

Hamilton concurs. No comment
received from Jody.

Phil has no comment.

Rick

THE WHITE HOUSE
WASHINGTON

July 19, 1978

*Jerry -
These are
tentative - I
need Jody's
Comments before
this memo comes
to me
J*

MEMORANDUM FOR THE PRESIDENT

FROM: Jerry Rafshoon *JR*
SUBJECT: Public Activity Plan
July 19 - September 30

This is a proposal for your public and media activity for the next ninety days. It is based on certain assumptions about the tone, themes and priorities that we want to communicate which are discussed briefly below. As important as what is included on this agenda is what is not included. Once you have agreed to a specific schedule we should not deviate from it or add to it without serious cause and consideration of the implications for the overall strategy.

TONE

The tone projected by you over the next ninety days should be one of competence. You should be serious, methodical, purposeful - working hard,

and successfully, on a few of the most important problems facing our country.

A subordinate tone should be your human qualities. This should not be projected in connection with issues or programmatic matters but should be tied to your leisure activity and domestic travel.

THEME

The single theme that should tie all public Presidential activity and statements together is "getting control." During this period we should not be suggesting expansion of activity, new programs or vision. The American people want to see the government - and particularly the President - get control of the forces that affect their lives. Each appearance should reinforce the fact that you are taking, or have successfully taken, action to bring these forces under control. The theme should run explicitly throughout our communication and each of the priorities discussed in the next section should be tied to all the others whenever appropriate.

PRIORITIES

1. ECONOMICS

a) International. At Bonn you were seen working with our Allies to try to get control of an increasingly complex and interrelated international economic system. I think you did a good job projecting a sense of a sober and thoughtful President facing up to very difficult challenges. We admitted our failures - particularly energy - and pressed our own interests, such as greater German growth, quietly and soberly. The American people did not see great successes at Bonn but they did see you quietly going about the business of being a world leader.

In the next few weeks we will be using Secretaries Vance and Blumenthal and Bob Strauss to talk about Bonn and to give impressions of how you - the only world leader who is not a former finance minister - had a great grasp of economics and took control of the situation at the Summit.

b) Domestic. At home we have one area of success - unemployment - and two areas of great concern - inflation and growth of government.

Getting credit for the drop in the unemployment rate over the last 18 months will simply require repetition of that fact in every forum where economics is mentioned (probably every forum.)

We should never tire of repeating it. One of our worst errors is that we don't utilize repetition of messages. In any kind of marketing situation you always take two or three messages and repeat them enough so that the word gets through. This is what we did with our successful TV commercials in 1976. Each commercial repeated your qualities ad nauseum so that the public - by accumulation effect - became convinced that you were a farmer, businessman, engineer, messiah, etc.

You need to recognize this and constantly reiterate the good things about your administration and this country.

On inflation we need to begin lowering expectations of success. You should stress the goals CEA has announced and talk in terms of "topping the curve" - not reducing inflation. You are going to lead the way through government action and will expect business and labor to cooperate. We should

look for dramatic examples of the fight - particularly, union contracts and government regulation. Finally, you are going to get control of federal waste and spending. We should punctuate this with a dramatic gesture or announcement every week, not necessarily by you. Again, we should never tire of repeating the theme of "getting control" of the federal government.

2. ENERGY

Energy was your number one legislative priority on assuming office. Prior to passage of the bills we should remind the American people that it is your program (modified by Congress.) And following passage we should begin to take credit in the same way we do for the reduction in unemployment - constant repetition. We should not crow or seem to blow the victory out of proportion but we should encourage recognition of the achievement and claim victory for our country.

3. CIVIL SERVICE REFORM

This is the heart of government reform. It

looked like it was going to pass without a big
fight. This is no longer so. We must pull out
all stops to get it passed and to show your total
commitment to reorganization. As with energy,
prior to passage we should identify you with the
bill whenever possible and post passage we should
be sure to get credit. It is important that we
begin now to revise the criteria, established
during the campaign, on reorganization. We are
not going to eliminate 1,600 agencies so we
should begin to claim major success for the reorgani-
zation effort on the basis of civil service reform.
We have already put Alan Campbell and Mo Udall in the
center of the fight.

not so

STRATEGY

Your public appearances over the next ninety
days should consist of

1. Many focused but loosely structured
television appearances - such as interview
shows or call-ins.

2. Many major print interviews usually
limited to one or two specific topics.

when to
start?

3. Limited brief announcements usually on anti-inflation or "holding the line" themes.

4. One major domestic speech - the equivalent of the Annapolis foreign policy speech.

5. Limited domestic travel emphasizing human and people events.

6. No foreign travel.

7. No last minute or unscheduled events or events not related to the themes and priorities.

Because we want to discuss the same issues over and over we will have to come up with new twists or some hard news to hang each statement on. With government control and anti-inflation we should have no trouble. The exclusive interviews will be carried with or without hard news.

NINETY DAY AGENDA

The following agenda is recommended from July 20 through October 20. It calls for the special media events to execute the above plan. In addition, your domestic trips will have a bearing on this schedule. We should endeavor to have regional press conferences or town meetings on these trips; regionalizing press conferences will help ease the pressure and the pitfalls of having one every two weeks. Town meetings are excellent vehicles for you.

I also recommend more TV coverage of the soft news events in the residence: such as the cultural events in the fall (PBS or networks); a feature on how the President relaxes and exercises, etc.

Please indicate your approval or disapproval of the following. After you do, we will pursue setting these up with the networks and others.

1. Prime time news conference: DONE

2. US News and World Report Q & A: This is one that they would do and give us the transcript beforehand. You did it last year and they want to do it again.

_____ ✓ _____ Yes _____ No

3. Business Week Interview: This should be done soon after the summit. A chance to focus on economic issues only.

_____ ✓ _____ Yes _____ No

4. Northern Virginia Town Meeting: This has been suggested by Congressional Liaison to focus on Civil Service reform. It gives you a chance to talk about government reorganization and getting control of the bureaucracy in an area where there are a lot of government workers.

_____ Yes > _____ No There will be many specific, highly technical questions - (I can study, I guess)

✓	Yes	No
---	-----	----

12. Sperling Breakfast in the White House: Sperling would have the cream of the columnists for one breakfast. You do well in this setting and they would be honored to have one here. We would do it right after Labor Day.

☒ Yes

☐ No

13. TV Special - ~~Barbara Walters with you and Rosalynn:~~ *no*
Maybe a ~~White House tour.~~ * Something before Thanksgiving or Christmas. This would be a General Electric Special. The entire hour devoted to the Carters rather than the way they did it last time.

☒ Yes

☐ No *later*

14. A major televised speech to a joint session of Congress. *Let's*

☒ Yes

☐ No *define subject first -*

15. Parade Magazine cover feature on you and Rosalynn: Soft news.

☒ Yes

☐ No

ADMINISTRATION SUPPORT

We will schedule major Administration figures for all of these and similar public and media events to discuss the same theme and priorities. These would include:

The First Lady
The Vice President
Secretary Blumenthal
Bob Strauss
Charlie Schultz
Jim McIntyre
Barry Bosworth
Secretary Schlesinger
Secretary Brown
Alan Campbell

We will also schedule Congressional and outside spokespersons for similar events to discuss and support our themes and priorities.

THE WHITE HOUSE
WASHINGTON

July 24, 1978

The Vice President
Hamilton Jordan
Stu Eizenstat
Jack Watson
Jody Powell
Anne Wexler
Charlie Schultze
Jim McIntyre
Landon Butler

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Rick Hutcheson

INFLATION EFFORT

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	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE
WASHINGTON

July 21, 1978

Mr. President:

This is the first weekly summary of efforts the Administration is undertaking to fight inflation. This summary will help us keep track of the progress we are making throughout the government.

I am increasingly convinced that it's all going to come down to two or three things for this program to develop credibility.

- (1) Budget restraint, with some immediate action such as the a \$3 to \$5 billion reduction for FY '79 that we are working on with McIntyre and a number of others, and milder actions such as the six month hiring freeze I have been urging.
- (2) A substantive economic program i.e. an incomes policy of some form, or a related approach.


Robert S. Strauss

THE WHITE HOUSE

WASHINGTON

July 21, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Ambassador Robert S. Strauss



RE: Summary of Administration's Anti-Inflation
Efforts, July 17-21, 1978

BUDGET

Two meetings have now been held of the Working Group on Efficiency and Cost Reduction of the EPG (co-chaired by Lee Kling and Bo Cutter, Charles Duncan, Dan Brill, Alfred Kahn and Doug Costle).

A general strategy is being developed for involving the Cabinet agencies more actively in the cost reduction effort, and for working with the Hill on anti-inflation actions in the FY '79 appropriations bills. I have sent letters to each Cabinet member advising them of the Working Group and asking for their cooperation.

McIntyre and I are in touch with respect to what might be accomplished in dollars and he has had a very constructive meeting with Muskie.

OMB is now scheduling briefings in the Federal Regional Headquarters cities (to be given by McIntyre, Eizenstat, Watson, Wexler, Cutter, Gramley and Nordhaus) on the FY '80 budget. These presentations will also cover present economic conditions and the impact of inflation.

BUSINESS

Commitments. During the coming week, I will be sending letters to the Fortune 1000 leading corporations asking for their support on price deceleration and executive compensation deceleration.

Vernon Weaver at the Small Business Administration has pledged to write letters to 1,000 small businessmen on his advisory council asking for their support. We are asking members of the Cabinet to contact firms in their areas of responsibility.

The responses to Secretary Blumenthal's letter to banks, brokerage houses, and insurance companies have been analyzed by the staff of the Council on Wage and Price Stability. A press release on the results is being considered by the Secretary.

REGIONAL ANTI-INFLATION FORUMS

A White House planning group chaired by Joe Aragon is working on regional anti-inflation forums. Initial cities under consideration are: St. Louis, Dallas, Minneapolis, Hartford and Atlanta. Preliminary contacts are being made with leaders in those cities.

I will not approve going forward with the meetings until we have made certain that something substantive will be accomplished. They cannot be P.R. only.

WHITE HOUSE BRIEFINGS

Trade Associations. Lee Kling has organized with Ralph Gerson, Steve Selig and others meetings with twenty of the major trade associations in an effort to generate support for our anti-inflation program and to move toward individual company resolutions.

Kling and Gerson are continuing meetings with the National Association of Manufacturers this week after our initial meeting Tuesday, and they are visiting with the Securities Industry Association and the American Institute of Architects.

PUBLIC OUTREACH

Esther Peterson prepared a six-part series of four minute radio tapes on consumer programs, including two on anti-inflation activities. These tapes are distributed to over 1,000 stations around the country.

Esther's office has also prepared a series of "how to" action guides for consumers to use in buying decisions relating to food, housing, health and energy related activities.

Jerry Rafshoon is preparing two anti-inflation brochures which explain the Administration's efforts to curb inflation. One brochure is geared toward the business and labor communities; the other towards the consumer.

CONGRESSIONAL TESTIMONY

Secretary Blumenthal testified before the House Budget Committee and a Senate Finance Subcommittee on the inflation outlook, stressing the inflationary potential of the Kemp-Roth tax cut proposal.

CONFERENCES

Esther Peterson addressed the 63rd Annual Conference on Weights and Measures urging their support for anti-inflation measures.

CONCLUSION

Most of the above is useful but not really very substantive. We are talking with Schultze, Bosworth and others about possible additional steps: incomes policy, productivity programs, next move with labor, etc. We will keep you advised.

3678

THE WHITE HOUSE
WASHINGTON

July 24, 1978

Jim McIntyre

The attached was returned in the President's outbox today and is forwarded to you for your information. The signed original has been given to Bob Linder for appropriate handling.

Rick Hutcheson

cc: Bob Linder

SUPPLEMENTAL APPROPRIATIONS

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	SCHLESINGER
	STRAUSS
	VANCE



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 18 1978

SIGNATURE

MEMORANDUM FOR: THE PRESIDENT

FROM: W. Bowman Cutter *WBC*

SUBJECT: Proposed 1978 Supplemental Appropriations and
a 1979 Budget Amendment

Attached for your signature are requests from the legislative branch for fiscal year 1978 supplemental appropriations of \$10 million and a fiscal 1979 budget amendment of \$57,500. Requests for the legislative branch are, by law, transmitted without change. Your January Budget had included \$5 million of the 1978 funds now requested as proposed for later transmittal. These requests will increase fiscal year 1979 outlays by \$5.4 million.

RECOMMENDATION

That you sign the letter transmitting these requests to the Congress.

Attachments

THE WHITE HOUSE
WASHINGTON

The President
of the Senate

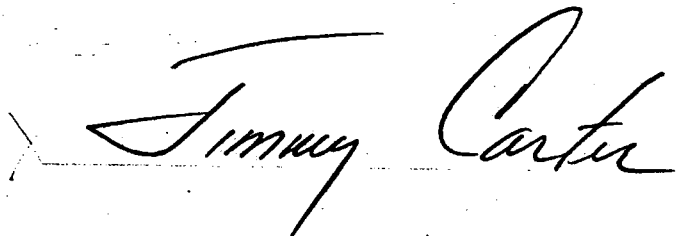
Sir:

I ask the Congress to consider requests from the legislative branch for supplemental appropriations for the fiscal year 1978 in the amount of \$10,000,000 and an amendment to the request for appropriations for the fiscal year 1979 in the amount of \$57,500.

The details of these proposals are set forth in the enclosed letter from the Acting Director of the Office of Management and Budget. I concur with his comments and observations.

Respectfully,

Enclosures

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the word "Enclosures".

THE WHITE HOUSE
WASHINGTON
July 24, 1978

The Vice President
Stu Eizenstat
Tim Kraft
Bob Lipshutz
Joe Aragon

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Rick Hutcheson

RODRIGUEZ CASE

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THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530



July 21, 1978

Note:
Quilley will
hold hearings in
10 SW communities
Then decide action
to take re
other cases
JC

The President
The White House
Washington, DC 20500

Dear Mr. President:

The Attorney General and I both appreciate your deep concern about the Rodriguez case. Even though I explained the reasons by phone late this afternoon, I thought it would be helpful to send you a detailed analysis of the basis for our considered decision in this case. It was a decision that the Attorney General made only after considerable study of the case and the dual prosecution policy, and upon the recommendation of myself as Deputy Attorney General; Drew R. Days III, the Assistant Attorney General in charge of the Civil Rights Division; and Mr. Kenneth J. Mighell, the United States Attorney in charge of the Dallas Office. Once the decision was made, we tried to explain publicly the basis and reasons for the decision as completely as possible. We also expressly stated the Department's commitment as a priority matter to the use of dual prosecutions to enforce and protect the civil rights of Hispanics and other minorities. A copy of the Departmental press release announcing the decision is attached.

We were certainly aware that the case was of special symbolic importance to a number of Hispanic groups, and their adverse reaction was not unexpected to us. Clearly, the easiest political course would have been to prosecute, but as you fully appreciate, political benefit or detriment as it may happen must only be incidental to an impartial decision to prosecute or not prosecute individuals for criminal offenses.

You had asked the Attorney General to review personally the case, and he took that responsibility seriously. He did not realize that you wanted him to get back to you on his decision, or he certainly would have done so.

The Rodriguez decision is fundamentally rooted in what is called the dual prosecution policy. I am attaching a

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BY JS NARA DATE 6/10/13

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memorandum explaining that policy and how the Attorney General has modified it consistent with Supreme Court opinions to better protect the rights of Hispanics and other minorities, as well as how that policy has been implemented in specific cases, including the Rodriguez case.

Respectfully,

Benjamin R. Civiletti
Deputy Attorney General

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Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, JULY 14, 1978

AG
202-739-2014

Attorney General Griffin B. Bell announced today that he has decided against federal prosecution of former Dallas police officer, Darrell Cain, for the shooting death of Santos Rodriguez on July 24, 1973. Cain was convicted in a Dallas court of murder with malice on November 16, 1973 and was sentenced to five years in prison which he is now serving.

After an exhaustive reexamination of the Rodriguez case by the Civil Rights Division, the Division and Assistant Attorney General Drew S. Days, III, the Division's head, recommended against federal dual prosecution. After personal review of the case, the Attorney General agreed with this recommendation against federal dual prosecution. The decision was also concurred in by Deputy Attorney General Benjamin R. Civiletti after his own personal review of the case.

Because of the limited and somewhat disfavored policy toward dual prosecutions of the Supreme Court, the Department of Justice permits such dual prosecutions only where "necessary to advance compelling interests of federal law enforcement." Although the senselessness of the crime

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and the youthfulness of the victim in this case have focused considerable public attention on the case and have made the decision particularly difficult, Mr. Bell said there were two main factors that led to the decision against a dual prosecution in this case:

-- The state prosecution of Cain was prompt and vigorous and resulted in a jury conviction of the highest degree of murder and a jury-set jail sentence involving his imprisonment for a term of years.

-- The time that has lapsed since the state conviction and the pre-indictment delay raised a number of particular legal problems.

The Justice Department had investigated the Rodriguez case in 1973 at the time of the killing, but the file was closed on December 12, 1973, subsequent to the successful state prosecution, in accord with the then existing dual prosecution policy. That policy prohibited the federal prosecution of an individual if a successful state prosecution for the same crime had taken place.

In February, 1977, Attorney General Bell amended the dual prosecution policy so that allegations of violations of the civil rights laws would be evaluated to determine "whether or not a federal prosecution is likely to vindicate rights sought to be protected by those laws."

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In December, 1977, as a result of the changed policy on dual prosecutions, the Civil Rights Division received several requests to re-examine the Rodriguez matter. The Department initiated a second full review of this case, including complete analyses of the trial and appellate records.

Mr. Bell said the evaluation considered not only the facts of the case but also other legal problems surrounding a dual prosecution in this case.

These legal problems included whether the retro-active application of the recently revised dual prosecution policy to an almost five-year-old case would violate rules against selective prosecution; whether a pre-indictment delay under these circumstances raised due process problems; and whether a federal prosecution would be consistent with the Supreme Court decisions approving dual prosecutions in a certain limited class of cases. While none of those legal issues alone prevented a dual prosecution in this case, they collectively raised questions of the fairness and wisdom of such a course, Mr. Bell said.

The Attorney General said the decision not to prosecute in this case was strictly a decision on this case alone. He stressed that the Department of Justice continued its commitment to the use of dual prosecutions to enforce and protect the civil rights of Hispanics and

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other peoples, and he reaffirmed his public statement of June 20, 1978, that "the Department of Justice will give renewed effort and priority to eliminating police brutality against Hispanic Americans and otherwise assuring them their rights and dignity through national leadership, emphasis on training, developing sensitivity to race problems, and by vigorous investigation and prosecution where indicated."

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OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

July 20, 1978

MEMORANDUM FOR THE PRESIDENT

Re: Justice Department's Policy Regarding
Dual Prosecutions

The purpose of this memorandum is to describe the background of the "dual prosecution" policy of the Department of Justice as it has been developed and applied both in the past and under this Administration, and to explain the basis for the Attorney General's decision not to seek indictment under the federal civil rights statutes of former Dallas police officer Darrell Cain for the killing of Santos Rodriguez.

I. Background

As recently as March 22 of this year the Supreme Court reaffirmed the principle that the Double Jeopardy Clause of the Fifth Amendment does not bar a federal prosecution for the same act for which a person has already been prosecuted by a State or Indian tribal court. ^{1/} This result had first been reached by the Court in 1922 in United States v. Lanza, 260 U.S. 377. In reaffirming the principle, the Court restated

^{1/} United States v. Wheeler, 46 U.S.L.W. 4243 (U.S. Mar. 22, 1978).

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its view that "undesirable consequences" might result were the rule to the contrary. It specifically noted that under a contrary rule, a State might prosecute an act as a minor offense and preclude the federal government from prosecuting that act as a grave offense, thereby "effectively depriving [the federal Government] of the right to enforce its own laws." 2/

The Supreme Court's opinions on this subject, at the same time, have historically reflected a concern that the power to initiate and carry out so-called "dual" prosecutions generates the potential of "unfairness that is associated with successive prosecutions based on the same conduct."

Rinaldi v. United States, 46 U.S.L.W. 3304 (U.S. Nov. 7, 1977). Indeed, it is fair to say that the Court has assumed in these cases a fundamental unfairness in permitting dual prosecutions which nevertheless must give way, as a matter of constitutional law, to the interests of the States and the federal government under the federal system established in our Constitution.

Rinaldi, quoted from above, involved an application of a policy of the Department of Justice which was formally put into effect by Attorney General Rogers in 1959 in response

2/ Id., at 4244. This principle, of course, cuts both ways.

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to several Supreme Court decisions upholding the constitutionality of dual prosecutions which also warned of the dangers of such prosecutions. 3/

The rationale of the policy established in 1959 was expressed as follows:

It is our duty to observe not only the rulings of the Court but the spirit of the rulings as well. In effect, the Court said that although the rule of the Lanza case is sound law, enforcement officers should use care in applying it.

Applied indiscriminately and with bad judgment it, like most rules of law, could cause considerable hardship. Applied wisely it is a rule that is in the public interest. Consequently -- as the Court clearly indicated -- those of us charged with law enforcement responsibilities have a particular duty to act wisely and with self-restraint in this area.

The 1959 rule, generally disfavoring dual prosecutions absent a "compelling reason," and allowing such federal prosecutions following a state court trial only upon the express approval of the Attorney General, has, over the course of almost two decades, proven to be generally satisfactory. The Attorney General, however, undertook a thorough review of this policy early in this Administration. The occasion for that review was a case involving the death of Richard Morales of Castroville, Texas, who was shot and killed by the Castroville police chief in 1975.

3/ Abbate v. United States, 359 U.S. 187 (1959); Bartkus v. Illinois, 359 U.S. 121 (1959).

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The Morales case itself illustrates the tension between the unfairness to the defendant of dual prosecutions and the potential inability adequately to vindicate federal civil rights should dual prosecutions be barred. The Castroville police chief was convicted under Texas state law of aggravated assault, an offense carrying a maximum term of 10 years' imprisonment with eligibility for parole after service of one-sixth of the sentence actually imposed. On the other hand, the federal civil rights laws carry the potential of life imprisonment where death has resulted in connection with the violation, representing the judgment of Congress that the gravity of such civil rights violations warrants severe punishment. The Attorney General concluded that the disparity in maximum sentences which might be imposed in a state and federal court for the same conduct in the Morales case constituted the kind of compelling circumstance which called for federal prosecution. The defendant should not be protected from the harsher federal sentence because the state prosecution was first brought.

The result of this review was the issuance of a memorandum by the Attorney General establishing a different policy with respect to dual prosecutions involving violation of federal civil rights statutes. The essence of that policy was and is

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that "each and every allegation of a violation of the civil rights laws shall be evaluated on its own merits, with the determining factor being whether or not a federal prosecution is likely to vindicate rights sought to be protected by those laws." 4/ This policy statement was not intended to alter, nor did it have the effect of altering, the prosecutor's basic obligation to determine whether there is sufficient evidence in the case to believe that a conviction can be obtained at trial and supported upon appeal.

The Department has applied the February, 1977 dual prosecution directive in three cases in addition to Morales.

In deciding to initiate a dual prosecution in the Brabham case in New York, the Civil Rights Division's study of the case indicated that the jury's acquittal of the defendant was in total disregard of the evidence presented at trial. With the exception of the contested testimony of the defendant police officer, all the witnesses at trial indicated that the black victim, Brabham, did not have a gun in his hand, that the defendant had placed a toy gun by the victim's body after he shot him, and that the shooting had thus been unprovoked. The Civil Rights Division concluded that if this same evidence were presented to a federal jury, a conviction and substantial

4/ Memorandum from Attorney General Bell to All United States Attorneys and All Heads of Offices, Divisions, Bureaus, and Boards of the Department of Justice, dated February 11, 1977 (copy attached).

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sentence could be obtained. On that basis, a dual prosecution was authorized.

The decision to federally prosecute the four Houston police officers for the killing of Joe Campos Torres was also based on the conclusion of the Civil Rights Division that a federal prosecution would yield a conviction and significantly heavier sentence. The state court jury's conviction of only a misdemeanor in that case, and the jury's probation of sentence, were in absolute disregard of the evidence. There was clear and uncontradicted evidence presented at trial that the defendants beat Campos and willfully threw him into the bayou fully expecting and intending him to drown. The Civil Rights Division, in evaluating the prospects for a federal prosecution, concluded that this evidence was sufficiently strong for them to achieve convictions and longer sentences if the case were brought in federal court. Because of that conclusion, a dual prosecution was authorized.

In the Rodriguez case, the state court jury convicted officer Cain of murder with malice, the state's highest degree of murder. Unlike the Morales case, the jury was not limited in the sentences which it could impose; it could have imposed a life sentence. Moreover, the conviction of murder with malice required the jury to find intent to kill, a finding which was

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contradicted by evidence put on by the defense. The defendant testified he thought he had fully emptied his pistol and that he never would have pulled the trigger had he thought there were bullets in the gun. The surrounding circumstances of a public place with several policemen nearby was argued by the defense as evidence that Cain would not have fired a gun he thought was loaded, since there was no way he could have avoided detection and arrest. This is in contrast to the Morales and Torres cases, where in the former the defendant was alone and sought to hide the body or in the latter, where the defendants acted in concert and were prepared to "stay quiet about any accident." In Rodriguez, the defense also pointed to officer Cain's wildly distraught behavior immediately after firing the gun as evidence that he thought it was unloaded. Finally, the defense tried to introduce a lie detector test which showed Cain's belief that the gun was unloaded, but the trial court refused its admission.

This conflicting evidence on the defendant's intent led the Civil Rights Division to conclude that in a subsequent federal prosecution, it would be difficult to obtain a conviction and heavier sentence than that imposed in state court. Both the state prosecutors who tried the case and the Civil Rights Division attorneys who reviewed the state trial believe that

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the state jury compromised in this case because of this conflicting evidence on Cain's intent, convicting him of the highest degree of murder because of the seriousness of the offense but giving a five year sentence because of the weak evidence on Cain's knowledge that the gun was loaded.

The decision not to initiate a dual prosecution was based in large measure on this judgment that another prosecution of Cain would not achieve a different result. Also of considerable weight was the absence of any evidence of jury confusion or arbitrary disregard of the evidence, as contrasted with the other three cases. Finally, the age of the case, including the additional unfairness to the defendant in having to defend against a new prosecution, and the problems for the prosecution itself of stale evidence and testimony, also contributed to the decision not to prosecute.

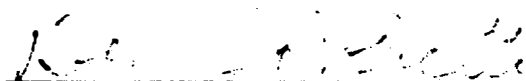
In sum, the decision not to prosecute in Rodriguez as distinguished from the other three cases, turned primarily on the basic determination which is the essence of prosecutorial discretion that a second federal prosecution would not in all probability produce any different result. This conclusion was coupled in the Rodriguez case with a careful examination of the integrity of the entire state court proceeding, including whether the prosecution was vigorous and in good faith and

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whether the jury and judge acted in reasonable accordance with the evidence presented and the standards of the applicable state law. To proceed with prosecution under these circumstances would be fundamentally unfair to the defendant who had already once run the gauntlet of jury trial. To indict and prosecute on any other basis than the prosecutor's best judgment of the facts would be an abuse of process.

This was the basis for the Attorney General's decision not to seek indictment under the federal civil rights statutes in the Rodriguez case.



Benjamin R. Civiletti
Deputy Attorney General

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Appendix

Summary of Cases Involving Dual Prosecution for Violation of
Federal Civil Rights

1. Richard Morales (deceased) - On September 14, 1975, Frank Hayes, Chief of Police, Castroville, Texas, caused the arrest of Richard Morales on a warrant of questionable validity, drove Morales not to jail but to an isolated area to question him about a burglary, threatened to kill him, physically abused him and, after directing other officers to leave, shot and killed Morales with a shotgun. Hayes claimed he did not mean to kill Morales and that the shotgun went off accidentally. Hayes thereafter directed his wife and her sister to dispose of the body by transporting it 400 miles across Texas and burying it. Hayes was charged in state court with murder in the course of aggravated assault and in the course of kidnapping, aggravated assault, and negligent homicide. The jury returned a guilty verdict of aggravated assault and, under Texas practice, the jury subsequently sentenced Hayes to the maximum penalty of 10 years. Under Texas correctional laws, Hayes would be eligible for parole in two years.

Subsequent newspaper accounts stated that some of the jurors were confused by the form of verdict, believing that a guilty verdict for "aggravated assault" should be returned if they found Hayes guilty of murder during the course of an aggravated assault.

The Attorney General decided to authorize a dual prosecution in this case, and announced it on February 11, 1977 along with the modification of the dual prosecution policy.

2. John Brabham (deceased) - In the early morning hours of April 9, 1973, Officers William Walker and Emanuel Pepitone observed a car with four occupants driving with its lights out. When the officers attempted to stop the car, it began a high speed attempt to elude them. The evading car crashed, and Brabham, a black, got out of the driver's side and began running. Officer Walker gave pursuit, yelled for him to halt, fired one warning shot, and fired a second shot which struck Brabham in the head, killing him.

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The weight of the testimony at the state trial was that Brabham was unarmed and that after shooting Brabham, Walker placed a toy gun next to his body. Walker testified that Brabham turned around towards him with a gun in his hand, and that he fired in response. None of the witnesses, including Officer Pepitone, saw Brabham with anything in his hand. There was also testimony from two police officers, including Pepitone, that Walker had in his possession on the night of Brabham's killing at least one toy gun like the one found at the scene.

In spite of this evidence, an all-white jury acquitted Walker on state homicide charges. After examination of the evidence, the Civil Rights Division found the jury's verdict inexplicable.

On September 21, 1977, the Attorney General authorized a dual prosecution, and on April 3, 1978, a federal grand jury in Brooklyn, New York, returned a criminal civil rights indictment against Walker.

3. Joe Campos Torres (deceased) - On May 5, 1977, Joe Campos Torres was arrested for causing a disturbance in a bar. Torres was in the custody of Houston police officers Orlando and Elliott when it was decided, among the officers on the scene, that Torres should be taught a lesson. To that end Torres was driven to an isolated location, where he was beaten and kicked by Officers Orlando, Brinkmeyer, Janish, Kinney, and Denson. Torres was handcuffed and not resisting at the time he was beaten.

When Orlando and Elliott subsequently took Torres to the jail, he was not accepted for booking due to the bleeding injuries to his nose and leg suffered during the beating. The sergeant on duty instructed that Torres be taken to the hospital, after which he was to be returned to jail. Instead, Orlando and Elliott returned Torres to the scene of the beating and summoned by police radio the four other officers who had participated in the earlier beating. When the six officers were present Torres was removed from the car, whereupon Orlando commented: "You wanted to see if the wetback could swim." Torres fell twenty feet to the water. He was wearing combat boots and military fatigue pants. He began to swim, but as he sank lower into the water the consensus among the five officers was that he probably would not make it. The five officers then rejoined Elliott and left the scene.

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On May 8, 1977, Torres' body was found floating in the bayou. Upon hearing this news report, Officer Elliott told his superiors of these events. Denson and Orlando were indicted by a state grand jury for murder and Janish was indicted for assault. Brinkmeyer and Kinney were granted immunity from state prosecution in exchange for their testimony. On October 6, 1977, a state court jury in Huntsville, Texas convicted Denson and Orlando of Negligent Homicide, a Class A Misdemeanor, punishable by a maximum of one year in prison and a \$2,000.00 fine. Both men were given probated sentences by the jury.

A dual prosecution was authorized by the Justice Department and a four count indictment against Denson, Orlando, Janish and Kinney, was returned in federal court on October 20, 1977. The four were tried and found guilty, and given five year suspended sentences by a federal judge. The Justice Department has appealed these suspended sentences as improper in a capital case under the applicable criminal civil rights statute.

4. Santos Rodriguez (deceased) - At 2:00 a.m. on July 24, 1973, Dallas Police Officer Roy Arnold was checking a burglary at a service station, when he heard a noise and saw two young Latin American males running from the station. He gave chase, but could not catch them. Arnold claimed to recognize the youths as David and Santos Rodriguez, and returned to his patrol car where he put out a description of the suspects and their address, but did not give their names. Arnold went to the Rodriguez house where he was joined by Officer Darrell Cain. They went into the boys' bedroom, where they found them in bed fully dressed, and "sweaty", according to the officers' testimony. They took the boys in the police car back to the service station for questioning.

At the service station, Officer Arnold questioned Santos Rodriguez about the burglary, and he denied any involvement. At this point, it appears that Arnold, who was sitting in the driver's seat, opened the door, swung his feet out, and began talking with another officer. David Rodriguez testified that Cain then removed his gun from his holster, opened the cylinder and twirled it, and then aimed the gun at Santos Rodriguez' head. David saw bullets in the cylinder after Cain twirled it. While pointing the gun at Santos' head, Cain told Santos to tell him if they had committed the burglary. Santos said they had not, and Cain "clicked" the gun. Cain then told Santos to tell the truth because this time the gun had a bullet in it. Cain

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"clicked" the gun again and it fired striking Santos Rodriguez in the left cheek. Powder burn patterns indicate the gun was six inches from Santos Rodriguez' face when fired. Both brothers were handcuffed with their hands behind their back when the shot was fired.

Cain testified that he emptied the bullets from the gun while hiding it between his legs. He then pointed the gun at Santos Rodriguez and pulled the trigger, believing the gun to be empty. Immediately after the shooting Cain jumped out of the car, ran about and screamed words to the effect that he didn't mean to do it.

Cain was tried in Travis County after a change of venue from Dallas County. The jury convicted Cain of murder with malice, the highest degree of murder in Texas, and sentenced him to five years. The conviction required proof of intent to kill.

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MEMORANDUM TO ALL UNITED STATES ATTORNEYS AND
ALL HEADS OF OFFICES, DIVISIONS, BUREAUS
AND BOARDS OF THE DEPARTMENT OF JUSTICE

SUBJECT: Dual Prosecution Policy in Cases Involving
Violations of Civil Rights

By memorandum dated April 6, 1959, former Attorney General Rogers set forth Department of Justice policy guidelines regarding federal prosecution of an individual where there has already been a state prosecution of that individual for substantially the same act or acts.

I have reviewed this policy as it applies to cases involving the violation of federal statutes pertaining to civil rights. It is my belief that these statutes protect interests which merit enforcement in their own right, regardless of whatever related enforcement action has been taken by the states. Accordingly, the policy which I shall follow in considering recommendations from U.S. Attorneys regarding separate federal prosecutions is that each and every allegation of a violation of the civil rights laws shall be evaluated on its own merits, with the determining factor being whether or not a federal prosecution is likely to vindicate rights sought to be protected by those laws. The April 6, 1959 guidelines are hereby modified to the extent they are inconsistent with this policy.

GRIFFIN B. BILL
Attorney General

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BY KS NARA DATE 6/10/13

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THE WHITE HOUSE
WASHINGTON

July 24, 1978

Secretary Marshall

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

bcc: The Vice President
Stu Eizenstat
Jack Watson
Charlie Schultze
Bob Strauss
Landon Butler

REVISED DRAFT 7/17/78

*Susan - Tell Ray
this sounds good.*
Q

Letter to Union Presidents from Secretary Marshall

Dear

I am writing to you because I feel so strongly that you should support the Administration's anti-inflation effort. The program merits the support of organized labor and lack of such support may well be harmful to the labor movement. I want to convey to you some of the reasoning behind my strong feeling on the subject.

The most serious threat to the goals that Labor and the Administration share is the possibility that inflation will continue to accelerate. Accelerating inflation will surely bring a premature end to the economic recovery and to our hopes for achieving the goals of the Humphrey-Hawkins Bill. Unless inflation moderates, it will be more difficult to pass Humphrey-Hawkins and all the social legislation, such as National Health Insurance, that are part of the agenda of both the Administration and the AFL-CIO. Failure to control inflation might well lead to outcomes that we would all find abhorrent. Already the Federal Reserve Board has taken

action to limit the expansion in the money supply and projections of economic growth for the next year are becoming more pessimistic. There also is growing support for deferring scheduled minimum wage increases and weakening enforcement of other protective labor legislation. If inflation continues at the rates recorded over the last 6 months, the probability of a recession and pressures for mandatory wage and price controls would both increase dramatically.

Workers are concerned about real wages--not merely money wage increases that can be eroded by inflation. Union members, therefore, as well as the rest of the population, are quite concerned about inflation. A recent Harris Poll indicates that union members rank inflation as a more important problem than unemployment. This reasoning convinces me that Labor has as much at stake in slowing inflation as does the Administration.

The fight against inflation has not been going well. As you well know, the Consumer Price Index for the first 5 months of this year has increased almost 4 percent, far more rapidly than last year and a rate if sustained

that would give us a total of about 9.5 percent for the entire year. A major portion of this rise is related to increases in the price of food, particularly the climb in meat prices that we expect to level off. Nonetheless, it is clear that the current trend is completely unacceptable.

No one is arguing that trade unions or collective bargaining have been a major element initiating the current inflation. Wage settlements in 1977 were modestly lower than those in 1976. Many of the price increases have occurred in sectors of the economy where unions are least well organized. However, the longer the current inflation continues, the more it becomes clear that a host of factors, including wage increases, help to sustain or even accelerate the present inflation psychology and inflation momentum. The aim of the

Administration's anti-inflation program is to break through this cycle.

With respect to wages there is clear evidence of acceleration during 1978. The hourly earnings index has increased by over 8 percent in the last 12 months compared to approximately 7 percent in the previous 12 months.

It is of course important to maintain free collective bargaining in this country. Yet unless we find a way to channel the collective bargaining process into less inflationary settlements, through lower wage increases and/or increased productivity performance, I fear that free collective bargaining as we know it will be in serious danger.

The Administration's anti-inflation program was launched early in May. It was unfortunate that following a meeting between the President and union leaders, the press chose to seize upon the differences between the President and

George Meany rather than emphasize the broad areas of agreement between the two men. Thus, the public has been left quite uncertain regarding organized labor's attitudes toward inflation and toward the Administration's program.

While the public attitude towards Labor's relationship to the anti-inflation program is important to all who share Labor's goals, more important is the potential for Labor to influence the program. With your cooperation, we believe that the anti-inflation policy would give more emphasis to such non-labor costs as health insurance premiums, interest rates, property costs, and other non-wage aspects of inflation. With your cooperation, there would be greater opportunity for a sustained and careful analysis of inflationary elements throughout the economy on a sector-by-sector basis. We believe this sectoral approach is superior to uniform guidelines or to a policy that requires single shot decisions on individual negotiations.

We understand that union leaders cannot agree with everything in the Administration's program. I do believe, though, that most of the program deserves your support. The President's program does not interfere with the worker's right to protest nor their right to fight for what they consider equitable collective bargaining settlements. Nor does it adopt the previous Administration's strategy of fighting inflation with high unemployment.

For all these reasons I urge you to give your firm support to the President's anti-inflation program.

Union cooperation in the anti-inflation program is extremely important to the Administration. It is needed to give greater credibility to the entire effort. I am interested in knowing of any actions taken, proposed, or being considered in your industry to moderate inflation. Changes in work rules or other steps to increase productivity or reduce costs

(such as were undertaken in the Nuclear Construction Agreement) or substantial moderation in wage demands (as demonstrated by some construction unions) are examples of these actions.

Would you write me your reaction to these thoughts? I am truly concerned that this Administration work out an effective anti-inflation program that has the support of organized labor.

Sincerely,

Secretary of Labor

THE WHITE HOUSE
WASHINGTON

July 24, 1978

Tim Kraft

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Scott Burnett

TELEPHONE CALLS

	FOR STAFFING
	FOR INFORMATION
✓	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND
	NO DEADLINE
	LAST DAY FOR ACTION -

cc Burnett

ACTION
FYI

	ADMIN CONFID
	CONFIDENTIAL
	SECRET
	EYES ONLY

	VICE PRESIDENT
	EIZENSTAT
	JORDAN
✓	KRAFT
	LIPSHUTZ
	MOORE
	POWELL
	WATSON
	WEXLER
	BRZEZINSKI
	MCINTYRE
	SCHULTZE

	ARAGON
	BOURNE
	BUTLER
	H. CARTER
	CLOUGH
	COSTANZA
	CRUIKSHANK
	FALLOWS
	FIRST LADY
	GAMMILL
	HARDEN
	HUTCHESON
	JAGODA
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	PRESS
	RAFSHOON
	SCHNEIDERS
	VOORDE
	WARREN
	WISE

	ADAMS
	ANDRUS
	BELL
	BERGLAND
	BLUMENTHAL
	BROWN
	CALIFANO
	HARRIS
	KREPS
	MARSHALL
	SCHLESINGER
	STRAUSS
	VANCE

THE WHITE HOUSE
WASHINGTON
July 21, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: TIM KRAFT THRU SCOTT BURNETT *SB*
SUBJECT: Telephone Calls

*Tim -
Give Rosalynn
8-10 weekly
JC*

Per your note this morning to Tim Kraft I am enclosing copies of the telephone calls we have submitted to Mrs. Carter and the Vice President.

THE WHITE HOUSE

WASHINGTON

July 21, 1978

MEMORANDUM FOR THE VICE PRESIDENT

FROM: TIM KRAFT

SUBJECT: Telephone Calls -- Week of July 24, 1978

Jess Hay
Dallas, Texas
(o) 214/746-7100
(h) 214/368-4059

Early Carter fundraiser in Texas, and National Finance Chairman of the DNC until replaced by Chuck Manatt. A strong Briscoe supporter in the last governor's race, Jess continues to be a spokesman for us in the Texas business community. He should be thanked for the work he did with the DNC. You may wish to discuss the Texas political scene and the Administration's battle against inflation.

NOTES: _____

Governor Joe Teasdale
Jefferson City, Missouri
(o) 314/751-3222
(h) 314/751-4141

Teasdale, a former Jackson County (Kansas City) prosecutor ran for Governor in 1972, lost the Democratic primary. In 1976 he again ran for Governor and won, beating a popular incumbent Governor Christopher Bond. Teasdale has had a great deal of problems handling the Missouri government and is not popular. He has not been called during our Administration.

NOTES: _____

George Moscone
San Francisco, California
(o) 415/558-3456
(h) 415/665-0213

Democratic Mayor of San Francisco, elected in 1975. Former state senator and member of the San Francisco County Board of Supervisors. Survived a recall attempt last year handily. He is a liberal; close to the Burton brothers -- Phil and John. Was helpful during the 1976 campaign.

NOTES: _____

Ken Gibson
Newark, New Jersey
(o) 201/733-6400
(h) 201/824-4451

Mayor of Newark, New Jersey from 1970 to present; delegate to the Democratic National Mid Term Conference in 1974. Past President, U.S. Conference of Mayors.

NOTES: _____

Jerry Fitzgerald
Fort Dodge, Iowa
(h) 515/576-6933
(h) 515/262-8846
(o) 515/281-3054
515/244-4837 (campaign headquarters)

Jerry is a candidate for Governor in Iowa. He is current majority leader of the Iowa House of Representatives. He has been in the Legislature for six years and been majority leader four years. He received 56% of the vote in primary against former state chairman Tom Whitney.

NOTES: _____

July 21, 1978

MEMORANDUM FOR MRS. CARTER

FROM: TIM KRAFT

SUBJECT: Telephone Calls - Week of July 24, 1978

Jean Wallin
Nashua, New Hampshire
(o) 603/882-8212
(h) 603/882-7230

A former DNC committeewoman who was active in the New Hampshire primary and general, Jean served as co-chair for the President's primary campaign and has supported him for a long time. She has always been helpful in calling the staff to alert them to various problems and tries to help as much as possible.

NOTES: _____

Sandy Abrams
Atlanta, Georgia
(o) 404/252-5407
(h) 404/252-8407

Sandy worked in the campaign in the early days and devoted a great deal of time during the convention and general as well. She feels that she has been neglected -- she has been omitted from a couple of invitation lists which included volunteers.

NOTES: _____

Mary Bell
Sioux City, Iowa
712/276-8277

Mary was a member of the original steering committee in Iowa during the primaries and remains a strong supporter today.

NOTES: _____

"THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

C
/

July 22, 1978

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze ^{C/S}

Subject: Controlling Exports to the Soviets

I understand that, in addition to the Sperry Rand computer, you may shortly be making decisions about possible embargoes on specific export items to the Soviet Union.

I have not been involved in this decision process, nor can I weigh the full range of foreign policy considerations. Nonetheless, I would like to comment on the economic aspects of the problem.

1. I have a particular concern about the possible control of oil drilling equipment. As you know, many feel that the Soviets are moving into a very tight oil supply situation. They are having trouble maintaining production in their oil fields. They may be importers in the mid-1980s, just at a time when the world oil market has little or no slack. Given this prospect, it is in our economic interest to help to increase Soviet production. From a global perspective, a barrel of oil produced in the Soviet Union is almost as beneficial as one produced in Saudi Arabia. Additional Soviet production helps reduce the upward pressure on world oil prices. Therefore, I feel that any controls on oil equipment that undermined prospects for Soviet production would be especially damaging to long-run U. S. interests.
2. Unless the U.S. export is highly unique, our failure to make the sale may simply lead the Soviets to turn elsewhere even if the alternative source is slightly inferior or higher prices. U. S. exports to the Soviet Union totaled \$1-1/2 billion in 1977, one third of which represented machinery and other goods. Restrictions on exports to the Soviets will increase our trade deficit when we can ill-afford it.

3. The United States has developed a reputation -- not undeserved -- as being an unreliable supplier abroad. (The worst case was the soybean embargo in 1973.) This Administration has worked hard to reverse that image. I fear that a major policy shift to retaliate against foreign governments by controlling and restraining exports will make our image worse, and worsen our export performance.
4. The Administration will soon fashion an export policy, of which a significant part is to remove government disincentives from exports. Forceful export controls and restraints will damage the benefits of our export policy -- quantitatively and psychologically.
5. If these controls should be extended to cover exports or reexports by third countries or by subsidiaries, on a broad range of products, the disincentive effects will be worsened, our reliability as exporters will be called into greater question, and our trade with non-communist nations will be affected. The effects on our trade balance, therefore, will be worsened.
6. When considering the export of a unique U. S. product which may confer a significant additional military capability on the Soviets, military rather than economic criteria must, of course, dominate.
7. I am not a Kremlinologist. But, I doubt seriously that specific, highly publicized economic sanctions are effective in securing political concessions. The Soviet leaders are not bloodless calculators balancing the economic cost of specific sanctions against the consequences of yielding to pressure in the political arena -- anymore than we are:
 - o it is usual in the relationship of one country with another, for economic sanctions to be used as a lever to prevent or correct economic injury; we do it all the time with our friends and allies as well as our adversaries -- countervailing duties, anti-dumping duties, retaliation under GATT, etc.
 - o but, whether logical or not, neither we nor the Soviets are likely to yield political concessions to avoid a specific economic sanction -- "millions for defense, not one cent for tribute."

THE WHITE HOUSE
WASHINGTON
July 24, 1978

Jody Powell

The attached was returned in the President's outbox today and is forwarded to you for your information.

Original sent to Stripping for mailing.

Rick Hutcheson

P.O. BOX 500
BLUE BELL, PENNSYLVANIA 19422
TELEPHONE (215) 542-4011

July 21, 1978

President Jimmy Carter
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20004

Dear Mr. President:

Remarks made at your television press conference July 20 indicate that you have been misinformed about the capability of the Sperry Univac computer system proposed for TASS, the Soviet news agency.

The system is at the low end of our 1100 computer series line, employs a ten-year old technology and is about to go out of production. It is also less capable than a number of computer complexes already approved for installation in the Soviet Union and supplied by various U.S. manufacturers. Among these systems is a Sperry Univac 1106 which is now being used by Aeroflot, the Soviet national airline.

It also should be noted that Sperry Univac spent over two years analyzing and discussing the exact TASS requirements. The system was very carefully designed to provide adequate, but not excessive capacity for the application.

It is not my intention to question your decision. However, I thought you should be aware of questions your statements on the subject could raise from members of the press and others.

Sincerely,

Richard L. Gehring

Richard L. Gehring
President, Sperry Univac

*And your Classmate
U.S. Naval Academy '47*

THE WHITE HOUSE

WASHINGTON

7-24-78

To Richard Gehring

Thank you for your
letter concerning the com-
puter sale to the Soviet
Union.

I'm glad to hear from
a former classmate, &
hope that on other issues
we will be in agree-
ment.

Sincerely,
Jimmy Carter

THE WHITE HOUSE
WASHINGTON

July 24, 1978

Frank Moore

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling.

Rick Hutcheson

		FOR STAFFING
		FOR INFORMATION
		FROM PRESIDENT'S OUTBOX
		LOG IN/TO PRESIDENT TODAY
		IMMEDIATE TURNAROUND
		NO DEADLINE
		LAST DAY FOR ACTION -

ACTION
FYI

		ADMIN CONFID
		CONFIDENTIAL
		SECRET
		EYES ONLY

		VICE PRESIDENT
		EIZENSTAT
		JORDAN
		KRAFT
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		WEXLER
		BRZEZINSKI
		MCINTYRE
		SCHULTZE

		ARAGON
		BOURNE
		BUTLER
		H. CARTER
		CLOUGH
		COSTANZA
		CRUIKSHANK
		FALLOWS
		FIRST LADY
		GAMMILL
		HARDEN
		HUTCHESON
		JAGODA
		LINDER
		MITCHELL
		MOE
		PETERSON
		PETTIGREW
		PRESS
		RAFSHOON
		SCHNEIDERS
		VOORDE
		WARREN
		WISE

		ADAMS
		ANDRUS
		BELL
		BERGLAND
		BLUMENTHAL
		BROWN
		CALIFANO
		HARRIS
		KREPS
		MARSHALL
		SCHLESINGER
		STRAUSS
		VANCE

THE WHITE HOUSE

WASHINGTON

July 20, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

FRANK MOORE *F.M./er*
RONNA FREIBERG *RF*
TOM DONILON *TD.*

Attached is a letter that I recommend you *no* send to the Cabinet and White House Senior Staff concerning their appearances for candidates for the remainder of the campaign. In addition, I recommend that you *done* discuss this at the Cabinet meeting next Monday. Later this week we will send you an update on the current number of appearances by Administration officials and a 90-day proposed schedule for the balance of the campaign.

I would also recommend that you discuss this at the Leadership breakfast on Tuesday of next week.

cc: Jack Watson

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR MEMBERS OF THE CABINET

AND WHITE HOUSE SENIOR STAFF

The Administration's coordinated campaign effort for 1978 has been very successful thus far. We have targeted the races, and you have been most generous in arranging your schedules to help the Democrats. The Carter family, the Mondale family, the Cabinet and the White House Senior Staff combined have made more than 450 appearances. The Democrats we have helped have been very thankful.

Beginning with the House recess and the Labor Day break, campaigns will be intensified. I hope that you will do as the Vice President and I are doing and devote as much time as possible during September and October to trips on behalf of candidates. I would suggest four or five days each month. Frank Moore's staff is coordinating this effort. Please be as cooperative as possible in this Administration priority.

Y_____

Do not write Copy Made
for the President's Response

Stu
J

THE WHITE HOUSE

WASHINGTON

July 22, 1978

MEMORANDUM FOR THE PRESIDENT

FROM:

JOE CALIFANO
STU EIZENSTAT

[Handwritten signature]

SUBJECT:

National Health Plan
Directive and Principles

We need your guidance on several unresolved aspects of the national health plan directive and principles. A revised version is attached (Tab A), as is the original version with your handwritten comments (Tab B).

1. Timing of Secretary Califano's Report. The draft called for Secretary Califano to prepare a tentative proposal "as soon as possible." You asked that we be more specific. This raises a sensitive issue.

Senator Kennedy and organized labor have requested and expect that there will be a tentative proposal by late August. Senator Kennedy wants to hold hearings in the fall; organized labor wants to make national health insurance a campaign issue.

We strongly believe that the tentative proposal should not be unveiled until after the congressional elections. Even liberal Democrats have requested that we delay the proposal. Although the UAW may believe otherwise, the climate is not right to make national health insurance a major campaign issue. More time is also required to educate the public that the national health plan is needed to bring health expenditures under control and is not simply another expensive benefit program. In addition, given the delays to date, it will be very difficult for HEW to develop a sophisticated tentative plan with phasing options before the elections. Finally, a plan before the elections would distract attention from the emphasis which needs to be placed on passing our energy bill.

*We can
expedite
Prevention &
Cost Control*

We do not know to what extent you reaffirmed your commitment to announce a tentative proposal in August or September during your recent meeting with Senator Kennedy. But if possible we would like to persuade Senator Kennedy to hold his fall hearings on the problems in the health care system rather than on a tentative Administration proposal. Secretary Califano would testify at these hearings and begin to dramatize the need for a national health plan. These hearings could help meet the Kennedy/labor goal of developing momentum for a national health plan even though no specific proposal is on the table. no

If Senator Kennedy and labor agree that a draft proposal is not required before the elections, we recommend that Secretary Califano be directed to prepare the tentative proposal "this year." If Senator Kennedy and labor do not agree, we recommend that you direct Secretary Califano to prepare a tentative proposal "as soon as possible." The latter wording may avoid a confrontation with Kennedy/labor now and may diffuse responsibility for delay in preparing the proposal until after the elections.

In either case, HEW intends first to prepare a tentative plan with phasing and other options, then consult widely, and then make recommendations to you next year. This approach is spelled out in the last paragraph of the revised directive.

✓
____ Have Secretary Califano develop a tentative plan "this year." (Recommended if Kennedy/labor agree to hold hearings only on health case "problems" before the elections.)

✓
____ Have Secretary Califano develop a tentative plan "as soon as possible." (Recommended if Kennedy/labor do not agree to defer hearings on a tentative plan this year.)

____ Have Secretary Califano develop a tentative plan by a specific date before the elections.

*e. then
ok*

2. Consultations with Organized Labor and Senator Kennedy. The principles relating to cost-sharing and non-automatic phasing will be opposed by organized labor, and, to a lesser extent, by Senator Kennedy. Labor and Senator Kennedy may also oppose the failure to announce a tentative plan before the elections.

You have previously told the labor leaders and Senator Kennedy that you would meet with them on the proposed principles before they are announced and give them an opportunity to comment. With your approval, we intend to show the principles to Kennedy/labor. However, we believe that a publicly announced meeting between you, labor and Kennedy would be a mistake since it would reinforce the impression that they are calling the shots on national health insurance. We would prefer to discuss the principles with them at the staff level and avoid a meeting unless they absolutely insist on it. If they insist, we would set up such a meeting.

- ☒ Proceed on staff level with labor/Kennedy, if possible. (Recommended.)
- ☐ Set up a meeting for you and labor/Kennedy, if necessary.

3. Issues Relating to Specific Principles.

(a) Principle 3. On the original draft, you deleted the following sentence: "The plan should preserve the personal relationship between patients and their physicians." That sentence was a paraphrase of the following sentence in your 1976 statement of principles: "Maximum personal interrelationships between patients and their physicians should be preserved...." Although we agree that the deleted sentence is not necessary, the omission of a sentence on the doctor-patient relationship in the 1978 principles will raise questions when commentators compare it to the 1976 principles.

- ☒ Delete sentence on doctor-patient relationship. (OMB and CEA recommend.)
- ☐ Include revised sentence on the doctor-patient relationship. (DPS and HEW recommend)

(b) Principle 4. On the original draft, you deleted the bracketed phrase in the following sentence: "The plan should include aggressive cost containment measures, [such as prospective payment methods and elimination of inflationary cost-plus payments.]" The 1976 principles included the following sentence: "Rates for institutional care and physician services should be set in advance, prospectively." OMB and CEA are concerned that the bracketed clause will

signal an endorsement of federally administered fee schedules or prospective budgeting by the Federal government and that the potential for success of these and similar techniques has not been adequately analyzed and is therefore unknown. HEW is concerned that by deleting the bracketed clause you will indicate a weakening on cost containment when this principle is compared with the relevant 1976 principle. Especially in light of the precarious state of hospital cost containment legislation, HEW does not think this pull-back from 1976 is wise and believes the principle, if it includes the bracketed clause, still leaves enormous discretion about the shape of cost containment efforts. OMB and CEA strongly disagree that the necessary discretion on the shape of cost containment would be retained if this language is included.

_____ Include bracketed language ["such as prospective payment methods and elimination of inflationary cost-plus payments"] in Principle 4. (HEW and DPS recommend.)

✓ _____ Delete bracketed language. (OMB and CEA recommend.)

(c) Principle 6.

(i) HEW does not want the principle to state that phasing will take into consideration evaluations of "budgetary and economic conditions, administrative feasibility, and the success of prior phases in containing health expenditures." HEW argues that this statement, in the principles, will preclude the option of automatic phasing -- an option which, for bargaining purposes, HEW wishes to retain. HEW would place the last two sentences of Principle 6 at the end of the directive in slightly modified form. In the directive, you could indicate a preference for tying phasing to a number of considerations, including evaluations, without firmly committing to that approach at this time. HEW would prefer to retain greater flexibility at this stage when phasing options have not been carefully explored, and believes that the concerns expressed below by OMB, CEA, and DPS can be accommodated in directive, as opposed to principle, language.

OMB, CEA, and DPS believe the phasing language should be included in the principles for two reasons.

1. This language is important to demonstrate your commitment to a responsible, noninflationary national health plan. Particularly given the problems faced by the cost containment legislation, the principles require more than just the bald recital that we are going to try to contain costs.

2. OMB, CEA, and DPS believe that labor and Kennedy may not strongly object to inclusion of the phasing language in the principles. If, when we brief labor and Kennedy, they do object strongly, we can reconsider.

- ☒ Retain last two sentences of Principle 6 in the Principle. (DPS, OMB and CEA recommend.)
- ☐ Place modified version of last two sentences of Principle 6 in directive. (HEW recommends.)

(ii) CEA and OMB would prefer that Principle 6 read "initiation of new phases should be linked to evaluations of budgetary and economic conditions..." as opposed to "should take into account...." CEA and OMB believe "linked to" signals a stronger commitment to using adverse indicators to block the initiation of new phases, and sends a stronger signal to HEW of your intentions. "Take into account" affords greater flexibility and therefore is supported by HEW and DPS at this time.

- ☐ "linked to" (OMB and CEA recommend.)
- ☒ "take into account" (HEW and DPS recommend.)

(iii) HEW prefers that Principle 6 state that there will be no additional federal spending until "FY 1982 or 1983" as opposed to "FY 1983." HEW argues that this wording provides greater flexibility and deflects liberal criticism that the Administration is deferring NHI too far into the future. In addition, assuming passage in calendar 1980, there may be some planning and other expenditures in Fiscal 1982. CEA, DPS, and OMB argue that because FY 1982 is the earliest possible date at which spending on NHI could realistically begin, the Administration gains no credit for budgetary and economic restraint unless it uses "FY 1983."

- ☒ "FY 1983." (DPS, OMB and CEA recommend.)
- ☐ "FY 1982 or 1983." (HEW recommends.)

(d) Principle 8. The draft said that "the plan should include a significant role for the private insurance industry." You changed "should" to "may." We request that you reconsider. First, there is a general consensus, including Kennedy and labor, that there should be some role for the private insurance industry. As written, the draft language purposely leaves open whether there should be an underwriting role or simply an administrative role. Second, this is one of the few areas in which the principles will be more specific than the concepts contained in your Student National Medical Association speech.

HEW believes that to increase bargaining leverage with the insurance industry, the word "significant" should be deleted. DPS, OMB and CEA strongly disagree; without the word "significant" the principle is meaningless, since it is obvious the insurance industry will have some role -- e.g. as Medicare-type intermediaries.

_____ "May"

✓

_____ "Should" (DPS, HEW, OMB, and CEA recommend.)

_____ Delete "significant" (HEW recommends.)

ok 4. An Issue Relating to Directive Language. You suggested that we compare total U.S. health expenditures as percentage of GNP with those of Great Britain, Canada, and Germany. While you correctly pointed out during the campaign that the U.S. spent more as a percentage of GNP than any other nation, Germany now spends more. Great Britain spends substantially less than the U.S., but since the British system is viewed with such disfavor, we do not believe that is a good comparison to make. Therefore, we suggest deleting the proposed comparison.

5. Timing and Nature of the Principles' Announcement. Secretary Califano will be out of town from the 19th through the 25th, and would prefer that you not release the principles in his absence. On the 26th and 27th Senator Kennedy and the AMA are holding their prevention conference; we believe it would be best to avoid issuing the principles while the conference is in session. This leaves July 28th or July 31st as announcement dates. Because July 28th is a Friday -- a bad news day -- we recommend July 31st.

↑
I'm not looking
for a lot of publicity

ok

You have indicated that you want a relatively low-key approach to the announcement of the principles. You could simply release the directive and principles or come out before the cameras and read a short statement and the principles. Under either alternative, Secretary Califano and Stu Eizenstat would both give background briefings on the problems in the present health care system and our projections about how those problems will worsen without a national health plan. This will help focus attention on the failures of the present health care system.

Date

☒ July 28th

☐ July 31st (recommended)

Event

☐ Short Presidential appearance before press, followed by briefing on problems (HEW recommends.)

☒ Issuance of principles without Presidential appearance, followed by briefing.

6. Briefing with Hill Leaders. Once you have signed off on the principles, we would like, as a matter of courtesy, to brief Ullman, Rostenkowski, Talmadge, and Long. These will be people we will depend upon to pass any NHI proposal.

sk

TAB A

THE WHITE HOUSE

WASHINGTON

DIRECTIVE FOR: THE SECRETARY OF HEALTH
 EDUCATION AND WELFARE

SUBJECT: NATIONAL HEALTH CARE PLAN

I have consistently expressed my support for the goal of a universal, comprehensive national health plan to contain skyrocketing health costs and to provide all Americans with coverage for basic health services and with protection from catastrophic expenses.

Such a plan would be the cornerstone of a broader national health policy designed to improve the health of Americans by reducing environmental and occupational hazards and encouraging health enhancing personal behavior, as well as by improving the effectiveness of our medical care system.

The current health care system has significant defects which must be remedied:

- o The health care system is highly inflationary. Spending in the health care industry -- the nation's third largest industry -- has been rising at an annual rate of 12%, with little improvement in the health of Americans. These expenditures cannot be successfully contained under current health delivery and financing methods, which produce unnecessary hospitalization, overreliance on expensive technology, and inadequate preventive care.
- o At least 15 million Americans have no health insurance.
- o Another 70 million Americans face potential bankruptcy because they lack insurance protecting them against catastrophic medical expenses.

- o Health resources are unevenly distributed across the country, resulting in significant gaps in vital medical services for many residents of rural and inner city areas.

In pursuing the goal of a comprehensive national health plan, I also wish to draw on the strengths of the American health care system:

- o American physicians and hospitals are among the finest in the world and deliver dedicated, high quality medical care.
- o A growing number of Americans have private health insurance. American business increasingly is paying for health coverage for its employees.
- o Various government programs have provided an opportunity for millions of elderly, poor and geographically isolated Americans to obtain quality health care.

In past months you and other members of my Administration have been exploring the most effective means of fulfilling my commitment to a comprehensive national health plan. You have considered a broad range of options. However, before I submit legislation to the Congress, I want to be certain that the plan is consistent with our efforts to control inflation in the health care sector and the general economy. Before you send me final recommendations for a national health plan, you should analyze the issues of cost control and health system reform in greater depth. The American people would not accept, and I will not propose, any health care plan which is inflationary.

At the same time, the American people must recognize that if we fail to act, health expenditures will continue to soar. In 1977, health expenditures were \$160 billion; they are expected to reach \$310 billion by 1983. This nation cannot accept the present health care system. A comprehensive national health plan will provide a critical opportunity to mount a national effort to bring the system under control.

I am directing you to address these concerns as you proceed to develop in greater detail a national health plan for the American people. The plan must improve the health care system, and combat inflation by controlling spiralling health care costs. To achieve these objectives, the plan, when fully implemented, should conform to the following principles.

1. The plan should assure that all Americans have comprehensive health care coverage, including protection against catastrophic medical expenses.
2. The plan should make quality health care available to all Americans. It should seek to eliminate those aspects of the current health system that often cause the poor to receive substandard care.
3. The plan should assure that all Americans have freedom of choice in the selection of physicians, hospitals, and health delivery systems.
4. The plan must support our efforts to control inflation in the economy by reducing unnecessary health care spending. The plan should include aggressive cost containment measures and should also strengthen competitive forces in the health care sector.
5. The plan should be designed so that additional public and private expenditures for improved health benefits and coverage will be substantially offset by savings from greater efficiency in the health care system.
6. The plan will involve no additional federal spending until FY 1983, because of tight fiscal constraints and the need for careful planning and implementation. Thereafter, the plan should be phased in gradually. Initiation of new phases should take into account evaluations of budgetary and economic conditions, administrative feasibility, and the success of prior phases in containing health expenditures. The experience of other government programs, in which expenditures far exceeded initial projections, must not be repeated.

7. The plan shall be financed through multiple sources, including government funding and contributions from employers and employees. It should take into account the other demands on government budgets, the existing tax burdens on the American people, and the ability of many consumers to share a moderate portion of the cost of their care.

8. The plan should include a significant role for the private insurance industry.

9. The plan should provide resources and develop payment methods to promote such major reforms in delivering health care services as substantially increasing the availability of ambulatory and preventive services, attracting personnel to underserved rural and urban areas, and encouraging the use of prepaid health plans.

10. The plan should assure consumer representation throughout its operation.

I am directing you to develop a tentative plan as soon as possible [this year] which embodies these principles and which will serve as the basis for in-depth consultation with the Congress, State and local officials, interest groups, and consumer representatives. You should then provide me with detailed recommendations so that I can make final decisions on the legislation I will submit to the Congress next year. To respond fully to my economic and budgetary concerns, you should develop alternative methods for phased implementation of the plan.

TAB B

THE WHITE HOUSE

WASHINGTON

DRAFT

MEMORANDUM FOR: THE SECRETARY OF HEALTH
EDUCATION AND WELFARE

SUBJECT: NHI DIRECTIVE AND PRINCIPLES

I have consistently expressed my support for the goal of a universal, comprehensive national health insurance plan which would provide all Americans with coverage for basic health services and with protection from catastrophic expenses, and which would contain skyrocketing health costs. 7

Such a plan would be the cornerstone of a broader national health policy designed to improve the health of Americans through efforts to reduce environmental and occupational hazards and encourage health-enhancing personal behavior, as well as through efforts to improve the effectiveness of our medical care system.

The current health care system has significant defects which must be remedied:

- The health care system is highly inflationary. Costs in the health care industry -- the nation's third largest industry -- are rising at an annual rate of 12%, with little improvement in the health of Americans. These spiralling costs cannot be successfully contained under current health delivery and financing methods, which encourage unnecessary hospitalization, over-reliance on highly expensive technology, and inadequate preventive care.
- At least 15 million Americans have no health insurance.
- Another 70 million Americans face ^{potential} bankruptcy because they lack insurance protecting them against catastrophic medical expenses.

- Health resources are unevenly distributed across the country, resulting in significant medical underservice in many rural and inner city areas.

In pursuing the goal of comprehensive national health ^{care}insurance, I also wish to take advantage of the strengths of the American health care system:

- American physicians and hospitals are among the finest in the world and deliver dedicated, high quality medical care.
- A growing number of Americans have private health insurance. American business increasingly is paying for health coverage for its employees.
- Various government programs have provided an opportunity for millions of elderly, poor, and geographically isolated Americans to obtain quality health care.

In past months you and other members of my Administration have been exploring the most effective means of fulfilling my commitment to a comprehensive national health [insurance] plan. You have considered a broad range of options. However, I have not been assured that the plans you have under consideration are consistent with our efforts to control inflation in the health care sector and the general economy. Before you recommend a national health [insurance] plan to me, you must analyze the issues of cost control and health system reform in greater depth. The American people would not accept, and I will not propose, any health care plan which is inflationary.

At the same time, our people should recognize that if we fail to act, health expenditures will continue to soar. In 1977, health expenditures were \$160 billion; they are expected to reach \$310 billion by 1983. This nation cannot afford the present health care system. A comprehensive national health insurance plan provides a critical opportunity to mount a national effort to bring the system under control.

In U.S. -
% GNP
(growth
compared
to Canada,
68, 72G)

I am directing you to develop for my approval a national health [insurance] plan for the American people. The plan must improve the health care system and combat inflation by controlling spiralling health care costs. To achieve these objectives, the plan must conform to the following principles:

1. The plan, when fully implemented, should assure that each American has comprehensive health [insurance coverage] care, including protection against catastrophic medical expenses.

*reword ** 2. The plan should extend to all Americans the high quality of care that is presently available to many. It should seek to eliminate the current "two-class" health system, in which the poor frequently receive substandard care.

3. ~~[The plan should preserve the personal relationship between patients and their physicians.]~~ Individuals should have freedom of choice in the selection of physicians, hospitals, and health delivery systems.

4. The plan must support our efforts to control inflation in the general economy. It must advance, not retard, our efforts to slow significantly the present, intolerable rise in health care spending. The plan should include aggressive cost containment measures [such as prospective payment methods and elimination of inflationary cost-plus payments.] and It should also strengthen competitive forces in the health care sector.

Double check language 5. When the plan is fully implemented, total public and private health spending should be no greater than the spending that would have occurred without national health insurance. Funds for the plan's comprehensive benefit package should be sought from the savings we realize by containing spending in the health care industry.

additional 6. The plan will involve no federal spending until FY 1983 [HEW prefers "1982 or 1983"], because of tight fiscal constraints and the need for careful planning and implementation. Thereafter, the plan's benefits [should be phased in gradually]. The initiation of new phases should take into account evaluations of the success in containing health expenditures, administrative feasibility and budgetary and economic conditions. The experience of other government programs, in which expenditures far exceeded initial projections, must not be repeated.

Shu - assess OEA/OMB language (their p1)

** We can't promise everyone first class private hospital rooms, resort rest periods, private duty nurses, etc.
Change to "adequate" or some equivalent descriptive word.*

7. The plan shall be financed through ^{several} many sources -- including contributions from employers and employees, as well as government funding. It should take into account the other demands on government budgets, the existing tax burdens on the American people, and the ability of many consumers to share a moderate portion of the cost of their care.
8. The plan ^{may} should include a significant role for the private insurance industry.
9. The plan should provide resources and develop payment methods to encourage major reforms in delivering health care services, such as substantially increasing preventive services, attracting personnel to rural and urban areas that are badly underserved, and encouraging the use of full-service health centers or pre-paid health plans.
10. The plan should assure consumer representation throughout its operation.

To respond fully to my economic and budgetary concerns, you should develop alternative methods for phased implementation of comprehensive national health ^{care} [insurance]. You should consult fully with the Congress, state and local officials, the relevant interest groups, and consumer representatives, and report back to me as soon as possible.

← be more
specific re
date

Strengthen references to prevention,
outpatient care



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OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

*No distribution
file
J*

AN ANALYSIS OF SENATOR NUNN'S
AIR FORCE ASSOCIATION SPEECH

° Senator Nunn's speech (Tab A) makes several basic points:

- SALT is necessarily linked to other events in the US-Soviet relationship.
- During the last decade the Soviets have obtained rough parity which has deprived us of ability we are alleged to have had in the 60's to make up for weaknesses in our conventional forces by reliance on what he describes as "decisive" nuclear advantage.
- That a premise of SALT I carried over into SALT II is the proposition that the US needs SALT agreements because the public won't support necessary strategic programs to keep up with the Russians.
- That the United States has no clearly defined SALT goals or strategic philosophy.
- That we derive our programs from our SALT positions rather than using our positions to carry out our strategic purposes.
- That even with an agreement we will need to have active programs, but that it is a "disturbing paradox" that we will need to do something by our own programs about Minutemen vulnerability since SALT won't help.

° The speech in many ways is a summary of the conventional criticisms of SALT. A number of specific points can be made:

- There is a doubt about the assertion that our numerical strategic advantages in the 60's were, or were thought to be, a cure-all for our conventional deficiencies. If they were, what on earth was all the struggle about flexible response about?

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- While it is true that the Soviets have caught up with us in numbers in the last ten years, it is highly contentious to state the dynamics of the relationship as "8 Soviet missiles versus 2 US." In the absence of a previous calculation, one is struck by the fact, illustrated in the table attached as Tab B, that while the Soviets have deployed a great many new kinds of missiles, the US has out-deployed the Soviets in MIRV systems by 2 to 1. Even overall, i.e., counting the very substantial Soviet buildup of non-MIRVed SLBMs and replacement of non-MIRVed ICBMs by other non-MIRV types, the Soviets have only out-built us by three to two.
- It seems to be simply false to say that it has been a premise of this Administration's SALT planning that we can't get the money we need for strategic programs so we must take whatever agreement we can get. Rejection of a sound agreement could create problems for the strategic programs we need, but there is practically no sentiment in this Administration that we would be unable to get money for desirable strategic programs -- with or without a SALT agreement. Accordingly, the whole discussion at the top of page 4 is an attack on the strawman.
- The assertion that we are adjusting our strategic programs to accommodate our SALT positions is also describing a world that is not real. No force decision since 1970 has been driven by SALT (except of course the termination of the ABM). Indeed, the principal and certainly most controversial strategic program decision of this Administration -- the cancellation of the B-1 -- made our SALT problems more complicated (by making cruise missiles more important) rather than reflecting a situation which we were allowing SALT considerations to drive our programs.
- In a speech devoted to the very reasonable proposition that we will need to maintain vigorous programs even with a good agreement, it is a cheap shot to ask why we need "huge expenditures to protect our land based systems" even with an agreement.
- ° The core of Nunn's speech, however, is his claim that the US lacks "clearly defined SALT goals." To refer only to the words of Harold Brown, one would have thought that pages 4 to 6 of the FY 79 Defense Report is an exposition of a clear and reasonably coherent set of goals for strategic policy. That passage explicitly includes the observation that the purpose of our arms control policy is to support those overall strategic objectives. Of course any set of goals must necessarily be stated in general terms (though not necessarily quite as simpleminded as those Senator Nunn used at the bottom of page 5 -- "to reduce the arms race and save money for both sides"). Broadly,

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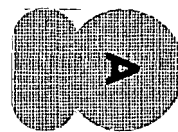
3

it can be said that our SALT goals are the promotion of our strategic objectives of stability in the technical sense and essential equivalence in the more political sense, avoidance of useless competition, attempting so far as we can to restrict the most dangerous Soviet systems, and keeping our options open for dealing with problems which SALT won't help. Harold Brown made a similar point in his Commonwealth Club speech.

- ° On the more positive side, Senator Nunn says he reserves judgment on the final agreement, and his observations about the importance of a sound strategic program even with a SALT agreement are wise. It might be worthwhile to try to talk to him about some of the more specific points, and more generally, to suggest that the problem is not lack of theory but lack of agreement on a specific program and that we would be interested in his views on what would constitute a sound program.

Attachments

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U.S. SENATOR SAM NUNN
AIR FORCE ASSOCIATION SPEECH
JULY 17, 1978 - NOON

SALT II

It is a great honor to return to Robins Air Force Base and to be with my fellow members of the Air Force Association, the many Robins employees and community leaders here. Today's events and this impressive group are a vivid demonstration to our honored guest, Air Force Chief of Staff Lew Allen, that "everyday in Middle Georgia is truly Air Force Appreciation Day." By the end of the day, General Allen will certainly share my belief that Robins is the premier Air Logistics Center in the world.

Based on what we've seen and heard so far today, I can't help but believe that the future of Robins is very bright. I am convinced that as long as we have a strong, capable Air Force, we will have a vigorous and healthy Robins Air Force Base.

In the last few years, the workforce has stabilized, the workload increased, and over \$50 million has been spent in new construction to support these important missions. I am optimistic that more missions for Robins will be identified. I will work closely with the Air Force and the Department of Defense to insure that Robins in the 80's has the necessary work, personnel and facilities to continue to perform its essential missions for our national security.

Much of Robins' success, of course, is due to the productivity and progressiveness of the civilian and military employees here. I grew up with many people who work here and know firsthand their outstanding caliber. Robins personnel are delivering a sound product at an efficient cost. The F-15 program is marked by innovative techniques. The C-141 Stretch program is ahead-of-schedule and under cost. Because of this, budget personnel in the Air Force are still trying to figure out what to do with the cost-underruns on the C-141 stretch.

I am pleased that General Allen can see these successes firsthand. Our nation and the Air Force are fortunate to have a leader of his superior technical background and management experience when many critical decisions affecting our strategic programs and Air Force personnel are pending.

General Allen is also a pilot, a West Point graduate, a nuclear physicist, and, through his career, was instrumental in developing almost every new important space system the Defense Department has. For four years, as head of the National Security Agency, he was responsible for our nation's most sophisticated electronic intelligence capabilities. This experience is important as the Air Force

is charged with maintaining two of the three "legs" of our strategic nuclear triad, and it is the Air Force on which we must rely to offset the Soviets' vast advantages on the ground.

When the Senate approaches consideration of the SALT II treaty, I intend to seek the military judgment of General Allen and the other service chiefs. I am delighted he joined us today and can see firsthand how important Robins and this chapter of the Air Force Association are to the successful operation of the Air Force and our national defense.

For over five years now, the United States and the Soviet Union have been negotiating a second Strategic Arms Limitation Treaty. Although the basic outline of the treaty is beginning to emerge, several clear points of controversy have emerged: (1) the growing vulnerability of our land-based missiles to a Soviet 1st strike; (2) the Russian Backfire bomber; (3) verification of Soviet compliance with the treaty; (4) the judgement as to whether the controversial protocol to the treaty will actually expire in three years or will politically and psychologically assume a life of its own.

Before we get bogged down in the technical complications of the SALT II Treaty, I feel that we need to take a look at some of the underlying assumptions our nation brings to arms control and to our relationship with the Soviet Union. We must not forget that SALT comprises but one element of a much broader relationship with the Soviet Union. It is but one facet of the continuing relationship between East and West. Consideration of a SALT II Treaty cannot be judged in a vacuum. It cannot be decided independently of the global military and political climate.

There are those who continue to criticize former Secretary of State Henry Kissinger's "policy of linkage." In my view, they will finally discover that linkage is inevitable -- if not as a deliberate policy, then at least as an unavoidable reality.

I do not believe it possible to consider the SALT II Treaty in isolation from the general deterioration which has taken place in the overall military balance between the United States and the Soviet Union during the past decade. The impact of a SALT Treaty on our NATO Allies cannot be ignored. The treaty can not be approached in complete disregard of the recent Soviet behavior in Africa. In my view, it would be a grave mistake for either Soviet or American negotiators now in Geneva to assume that Russia's relentless and increasingly bold attempts to expand her political and military influence beyond the traditional confines of the European continent will have no bearing during the SALT II ratification fight.

I am not suggesting that these and other external considerations should alone decide the fate of SALT II in the Senate. I have made no decision on SALT II and will not make a final judgment until the treaty is signed and I have had an opportunity to study it thoroughly and carefully on its merits.

There is another aspect of our relationship with the Soviet Union which cannot be ignored in weighing the SALT II Treaty.

We must consider the potential danger to the U.S. and the free world if parity in strategic armaments is combined with Soviet conventional military superiority in the future.

Ten years ago, the United States enjoyed a decisive strategic nuclear advantage over the U.S.S.R. This advantage allowed us to offset Soviet superiority in land forces, and provided a credible nuclear umbrella capable of deterring non-nuclear aggression.

Since the late 1960s, however, in a largely successful drive to "catch up" with the United States, the Soviets have built and deployed entirely new families of highly destructive and increasingly accurate strategic nuclear missiles capable of devastating the United States. Aided by a strategic force budget twice as large as ours, the Soviets have introduced no fewer than eight new strategic ballistic missiles, compared to only two for the United States during the same period. Also during this same period, the Soviets have expanded and modernized their ground forces, transformed their navy from a coastal defense force into an offensive "bluewater" fleet, and rebuilt what was once a limited tactical air force into a powerful, aggressive air armada.

The Soviets' attainment of rough parity with the United States in strategic armaments while at the same time dramatically expanding their nonnuclear forces means that the capacity of our strategic nuclear forces to deter all kinds of potential Soviet aggression has been sharply reduced. We can no longer rely on nuclear weapons to make up for our conventional deficiencies, which have grown. The linkage between conventional and strategic nuclear capability cannot be ignored in SALT II.

*no one
has suggested
this*

It is important to remember that SALT I was negotiated during a time when the U.S. still maintained substantial advantages in accuracy and MIRV capabilities. More to the point, however, SALT I was negotiated during a period of great antagonism within the U.S. towards new strategic programs by our nation. Not only was our strategic momentum limited, but there was an aversion in the Congress and among a large segment of the American public to all things military. Vietnam had poisoned the political atmosphere in America to the point that a case could be made -- and was made by

Secretary Kissinger -- that without SALT I, the Soviets' strategic momentum would have continued unimpeded, and the U.S. would have voluntarily stood still, thus allowing the Soviets to achieve strategic advantages.

Unfortunately, today, our nation continues to negotiate from a posture of self-imposed unilateral restraint even though circumstances have greatly changed. The executive branch has taken our SALT I philosophy, which was based on public attitudes shaped by dislike of the Vietnam war, and carried it to the SALT II negotiations as if the world had stood still in the interim. This has been the case in both the Carter and Ford Administrations.

The mood of the American people has changed. The mood of the Congress has changed. I am convinced that the Congress today would support any strategic initiative proposed by the Administration -- assuming the case is made on its merits.

My point is, we should not tie our own hands at the negotiating table because of a false assumption that without a SALT agreement the citizens of this nation will lack the will necessary to prevent a Soviet bid for strategic superiority. Instead, we should take advantage of the significant change in public and Congressional opinion since SALT I was concluded.

I also believe that the time has come to examine our nation's philosophical approach to the SALT negotiations. Indeed, before we begin what will in all likelihood be the arms control "debate of the decade", I believe we should ask the crucial question: "What is America's arms control philosophy?"

We should not permit complex technical analyses of each detailed SALT issue to obscure the simple truth that our nation has no clearly defined SALT goals. Indeed, such goals as we have seem to spring up only after agreements begin to emerge -- almost as an afterthought. In other words, our goals appear to be the product of the need to justify a technical agreement we have already negotiated rather than overriding objectives designed to guide technical negotiations.

The result of this U.S. negotiating philosophy, if one can call it that, is predictable. Lacking an arms control philosophy capable of commanding consensus, we lack clear and enduring goals at SALT. In turn, the absence of goals at SALT denies us meaningful criteria upon which to judge any forthcoming agreement. Thus, we spend more time fighting among ourselves as the SALT agreement is negotiated than we do quarreling with the Russians at Geneva. We have large numbers of hawks and doves throughout the country who make

up their minds that they are for or against an agreement long before it is negotiated, and then spend their time hunting for the details to justify their preconceived positions.

If we lack a SALT philosophy in this country, what about the goals for our nuclear forces? The Soviets plan their long-range strategic forces and then negotiate an agreement compatible with their program. We seem, more and more, to have no long-range plans except those that may evolve after we weigh the restrictions of the SALT agreement. For example, many Americans must be confused by reading press reports that the U.S. is -- in the middle of a strategic arms limitation negotiation -- debating the development of a new multiple aim point missile system known as the MX. Our cruise missile programs are also being shaped by our SALT negotiations. Some adjustments are, of course, inevitable, but we should know where we are going before we negotiate.

There are three ways that the Soviets can achieve strategic nuclear advantage. First, we can permit them to do so by agreement. Second, in the absence of an agreement, we can allow them this advantage by unilateral restraint. Third, we can have an agreement which is theoretically both equitable and verifiable, and our nation can still allow Russia a nuclear advantage if they develop their systems to the maximum extent permitted, while we hold back development below the limits of the agreement.

In other words, even the most equitable and verifiable agreement can become a foundation for Soviet superiority in the absence of a U.S. strategic program that fits the agreement. I have slowly and sadly come to the conclusion that for the Soviets -- their strategic programs drive their SALT negotiations -- while for the U.S., our SALT negotiations drive our strategic programs.

Clearly, a primary goal of SALT I and SALT II, and our own strategic program should have been to prevent our land-based missile system from becoming vulnerable to a Soviet first strike. Indeed, this goal was implicit in the U.S. SALT proposals of March 30, 1977. Yet, it has subsequently evaporated and everyone now agrees that enhanced survivability of our Minuteman force will not be obtained in a SALT II agreement. We are therefore confronted with a disturbing paradox even before we sign a SALT II agreement. We can see that huge expenditures to protect our land-based systems may now be inevitable. Thus, the major opportunity of SALT I and SALT II to reduce the arms race and save money for both sides, appears to be totally lost.

In summary, I believe the failing thus far of our nation's focus on the SALT debate is not that there are two

opposing camps which is probably inevitable. The tragedy is that the SALT II debate may center on so many details that the American public and most of the Congress will never realize that our nation has never, as a trial lawyer would say, "joined the crucial issues": (1) How does SALT relate to the deteriorating conventional military balance between the United States and the Soviet Union? (2) What is our arms control philosophy and what are our SALT goals? (3) Should SALT be linked to other U.S.-Soviet relationships and, if so, where do we draw the line?

I do not know whether SALT II will be ratified, modified, or rejected by the Senate. I do hope that whatever happens, we emerge with a national consensus which represents both a rational and realistic approach to arms control in the future.

We can blame the Soviets for a lot of things, but we cannot blame them for our own lack of a philosophy for strategic forces and arms control.

Some have compared the U.S. and the Soviet Union to apes on a treadmill (two apes in a race, so to speak). Our first choice, of course, is to end the arms race with the Soviets while protecting our own security. While we pursue this goal, however, I'd rather be the ape in a race than the monkey who lost.

In conclusion, our nation has a severe challenge. In an increasingly technological world, we in this country must begin to reject the simplistic and erroneous assumption that the world will be safe if we reach a SALT II agreement, but will be condemned to a nuclear holocaust if we don't.

We must realize that arms control negotiations with the Russians represent a continuous long-term process and that the millenium is not likely to be the result of any such negotiations.

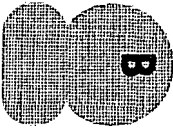
We must realize that there probably will be a SALT III, a SALT IV, a SALT V, and that our children and grandchildren will also have to face the reality of a nuclear world. We must realize the importance of maintaining our military strength with a SALT treaty. SALT would limit arms, not eliminate them.

We must realize that while nuclear weapons are very destructive, they are not the only modern weapons that can bring about a worldwide catastrophe. We must realize that the western world can be defeated politically and militarily with conventional, as well as nuclear weapons.

In short, we must face reality as a nation in our approach to arms control and our own strategic programs. We must have clear goals; we must have the ability to explain them to our citizens in a democratic society; and we must have the patience to pursue them over the long term.

SALT II is important, but even more important to our nation's lasting security is whether we as a democracy can form a consensus behind a patient, persistent and rational approach to arms control.

###



US and Soviet Deployments of New Missile Types Since 1970

Since 1970, the USSR has deployed an array of different new missiles.

New Missiles: (MIRV in brackets)

SS-11/2-3-4	480 *	Source: NIE 11-3/8-78 Table A-3 "1978 mid-year"
SS-17/1	(110)	
-17/2	30 **	
SS-18/1-3	80 **	
-18/2	(54)	
SS-19/1	(190)	* Includes 120 at D&P
-19/2	30 **	** Count as MIRV for SALT purposes
SS-16	?	
SS-N-6/2-3	336	
SS-N-8	244	
SS-N-17	12	
SS-N-18	(128)	(MIRV status is unclear)

The US has deployed 2:

MM III	(550)
Poseidon C-3	(496)

But (1) The Soviets haven't deployed as many of any of theirs as we have of both of ours.

(2) We have deployed many more MIRV launchers; they have been putting in mostly new single-RV systems.

	<u>US</u>	<u>USSR</u>
MIRV ICBM	550	354
MIRV SLBM	496 1046	128 482
Non-MIRV ICBM	0	620
Non-MIRV SLBM	0 _____	592 <u>1212</u>
	1046	1694

(3) Of course this will change in time, but the past 8 years are as shown.